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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,788	03/21/2006	Sacha Felder	3560	3406

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STRIKER, STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

EXAMINER

DEXTER, CLARK F

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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07/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/572,788

Applicant(s)

FELDER ET AL.

Examiner

Clark F. Dexter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/21/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement filed on March 21, 2006 has been received and the references listed thereon have been considered.

Abstract

3. The abstract of the disclosure is objected to because in line 5, "(Figure 1)" should be deleted. Appropriate correction is required. See MPEP § 608.01(b).

Specification

4. The disclosure is objected to because of the following informalities:

On page 4, line 21, "108" is inaccurate and should be changed to --107--.

On page 5, lines 15 and 18, each occurrence of "118" is inaccurate and should be changed to --113--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, line 5, "diametrically" renders the claim vague and indefinite as to what is being set forth, particularly since there is no circular feature set forth and thus it is not clear as to what "diametrically" refers.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3, 5, 6 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Knouse et al., pn 2,263,136.

Knouse discloses a power tool with every structural limitation of the claimed invention including:

a first operating switch (e.g., 30 or 32) for turning the power tool (e.g., see Fig. 1) on and off, wherein the power tool includes a second operating switch (e.g., 32 or 30) for turning the power tool on and off;

[claim 3] wherein the power tool includes a side handle (e.g., 12 or 10) and a top handle (e.g., 10 or 12), the first operating switch (e.g., 30) being located on the side

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handle (e.g., 12), and the second operating switch (e.g., 32) being located on the top handle (e.g., 10);

[claim 5] wherein the first operating switch (e.g., 30 or 32) and the second operating switch (e.g., 32 or 30) are coupled with each other;

[claim 6 (from 5)] wherein the first operating switch (e.g., 30 or 32) and the second operating switch (e.g., 32 or 30) are mechanically coupled with each other via a flexible connecting element (e.g., 56, which is inherently flexible to at least some extent based on its structural configuration);

[claim 9] wherein the first operating switch (e.g., 30) is connected with an adjusting slide (e.g., 37), the adjusting slide converting a motion of the first operating switch into an electrical variable.

8. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Cuneo, pn 4,381,037.

Cuneo discloses a power tool with every structural limitation of the claimed invention including:

a first operating switch (e.g., 16 or 21) for turning the power tool (e.g., 10) on and off, wherein the power tool includes a second operating switch (e.g., 21 or 16) for turning the power tool on and off;

[claim 2] wherein the first operating switch (e.g., 16 or 21) and the second operating switch (e.g., 21 or 16) are positioned essentially at right angles to each other;

[claim 3] wherein the power tool includes a side handle (e.g., 14) and a top handle (e.g., 15), the first operating switch (e.g., 21) being located on the side handle

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(e.g., 14), and the second operating switch (e.g., 16) being located on the top handle (e.g., 15);

[claim 4 (from 3)] wherein the side handle (e.g., 14) and the top handle (e.g., 15) transition into each other, thereby essentially forming a right angle (e.g., see Fig. 1), the first operating switch (e.g., 21) and the second operating switch (e.g., 16) being located on diametrically opposed surfaces (e.g., as best understood) in this angle;

[claim 5] wherein the first operating switch (e.g., 16 or 21) and the second operating switch (e.g., 21 or 16) are coupled with each other.

9. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Troutman, pn 3,711,946.

Troutman discloses a power tool with every structural limitation of the claimed invention including:

a first operating switch (e.g., front or back occurrence of 18) for turning the power tool (e.g., see Fig. 1) on and off, wherein the power tool includes a second operating switch (e.g., the other occurrence of 18) for turning the power tool on and off;

[claim 2] wherein the first operating switch (e.g., 18) and the second operating switch (e.g., 18) are positioned essentially at right angles to each other;

[claim 3] wherein the power tool includes a side handle (e.g., back or front occurrence of 14) and a top handle (e.g., the front or back occurrence of 14), the first operating switch (e.g., 18) being located on the side handle (e.g., 14), and the second operating switch (e.g., 18) being located on the top handle (e.g., 14);

[claim 5] wherein the first operating switch and the second operating switch are coupled with each other (e.g., electrically).

Claim Rejections - 35 USC § 102/103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 2 and 4 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Knouse et al., pn 2,263,136.

Knouse discloses a power tool with every structural limitation of the claimed invention including:

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[claim 2] wherein the first operating switch (e.g., 30 or 32) and the second operating switch (e.g., 32 or 30) are positioned essentially at right angles to each other (e.g., as broadly considered, particularly with respect to the relationship of the corresponding features of the present invention as shown in applicants' Fig. 3);

[claim 3] wherein the power tool includes a side handle (e.g., 12 or 10) and a top handle (e.g., 10 or 12), the first operating switch (e.g., 30) being located on the side handle (e.g., 12), and the second operating switch (e.g., 32) being located on the top handle (e.g., 10);

[claim 4 (from 3)] wherein the side handle (e.g., 12) and the top handle (e.g., 10) transition into each other, thereby essentially forming a right angle (e.g., as broadly considered, particularly with respect to the relationship of the corresponding features of the present invention as shown in applicants' Fig. 3), the first operating switch (e.g., 30) and the second operating switch (e.g., 32) being located on diametrically opposed surfaces (e.g., as best understood) in this angle.

In the alternative, if it is argued that a right angle as claimed is not present in Knouse, the Examiner takes Official notice that it is old and well known in the art to provide rectangularly configured handles having corners formed by substantially right angles to provide various well known benefits including ergonomic as well as manufacturing benefits based on the intended use of the tool. Therefore, it would have been obvious to one having ordinary skill in the art to provide the relationships involving right angles as claimed to gain the well known benefits including those described above.

Further, it would have been an obvious matter of design choice to modify the handle by making it more rectangularly configured and thus providing the relationships involving right angles as claimed since applicant has not disclosed that having such specific angles solves any stated problem or is for any particular purpose, and it appears that the device of Knouse would perform equally well with angles in the disclosed range (it is again noted that the corresponding angles in applicants' disclosure are not strict right angles as best viewed in Fig. 3).

Claim Rejections - 35 USC § 103

12. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knouse et al., pn 2,263,136.

Knouse discloses a power tool with almost every structural limitation of the claimed invention including a connecting element (e.g., 56) but lacks:

[claim 7 (from 6)] wherein the connecting element (e.g., 56) is made of sheet metal;

[claim 8 (from 6)] wherein the power tool includes a guide for the connecting element (e.g., 56).

Regarding claim 7, the Examiner takes Official notice that it is old and well known in the art to make such components from sheet metal for the various well known benefits including its ease of manufacture, availability, and durability. Therefore, it would have been obvious to one having ordinary skill in the art to make the connecting

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element of Knouse from sheet metal for the well known benefits including those described above.

Regarding claim 8, the Examiner takes Official notice that such guides are old and well known in the art and provide various well known benefits including stabilizing the transition of force provided by an elongate component to prevent the component from bending or buckling. Therefore, it would have been obvious to one having ordinary skill in the art to provide such a guide on the device of Knouse to gain the well known benefits including that described above.

13. Claims 1, 3, 5, 6, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nalley, pn 4,262,420 in view of Knouse et al., pn 2,263,136.

Nalley discloses a power tool with almost every structural limitation of the claimed invention including:

a first operating switch (e.g., 20) for turning the power tool (e.g., see Fig. 1) on and off,

[claim 10] wherein the power tool is a jigsaw.

Nalley lacks wherein the power tool includes a second operating switch (e.g., the other occurrence of 18) for turning the power tool on and off.

Knouse discloses a saw with a handle having first and second operating switches (e.g., 30, 32) on top and side handles (e.g., 12, 14) as described above and teaches that the disclosed handle configuration facilitates operation of the saw in that the switch actuating means are associated with each of the grips and so positioned thereon so that upon grasping either grip, a switch may be operated to close the motor circuit and

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operate the saw. Therefore, it would have been obvious to one having ordinary skill in the art to provide such a handle on the saw of Knouse to gain the benefits taught by Knouse including that described above.

Conclusion

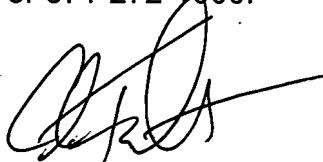
14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Clark F. Dexter
Primary Examiner
Art Unit 3724

cf
July 17, 2007